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## QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

### Summary or arbitrary executions

Report by the Special Rapporteur, Mr. S. Amos Wako, appointed pursuant to Economic and Social Council resolution 1985/40 of 30 May 1985

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GE.86-10422/0223e, 0237e

73. The following letter, dated 15 January 1986, was received from the Permanent Mission of Honduras to the United Nations Office at Geneva:

[Original: Spanish]

"... in this Note I have the honour to reproduce the text of a telex sent care of this Mission by the Ministry of Foreign Affairs of Honduras which reads as follows:

'Re your telex 005 concerning the communication of the Special Rapporteur of the Commission on Human Rights on Summary or Arbitrary Executions, the Government of Honduras reaffirms its willingness to continue its efforts to resolve the cases reported.'

..."

74. The Special Rapporteur transmitted a summary of the allegations received in regard to Indonesia, which reads as follows:

"Killing of a number of persons by security forces reportedly continued to take place as in 1983 in connection with an anti-crime campaign, especially in Jakarta and West Java. The total number of people killed since the beginning of the campaign in April 1983 was estimated at between 4,000 and 8,500.

"In East Timor in 1983 and 1984 a number of persons were reported to have died in custody or to have been executed after trials which allegedly did not provide safeguards to protect the right to life of individuals. Also a large number of civilians, mostly unarmed, were reportedly killed by the army. Furthermore, two persons were reported to have been killed in detention in the Irian Jaya police station in Jayapura in April 1984. Their names were given as Arnold Ap and Edward Mofu. Another person, whose name was given as Azer Demotekai was reported to have died as a result of torture in February 1984 after being abducted and detained by an Indonesian paracommando unit."

75. The following letter, dated 10 January 1985, was received from the Permanent Mission of Indonesia to the United Nations Office at Geneva:

[Original: English]

"...

1. As regards the alleged killings in 1983 by security forces in connection with an anti-crime campaign referred to in your letter and the annex, the Indonesian Permanent Representative has provided adequate clarification in his letter number 141/POL-040/84 dated 24 January 1984 mentioned in your letter. We have no further information to add except that there has been no more incidence of mysterious killing since 1984. This could be seen as the outcome of effective preventive measures undertaken by the Government to put an end to such killings.

2. The allegations mentioned in the annex of your letter that in 1983 and 1984 a number of persons died in custody or had been executed after trials which allegedly did not provide safeguards to protect the right to life of individuals, and that a large number of civilians were reportedly killed by the army are simply untrue. They are part of a malicious campaign to discredit Indonesia waged by certain elements opposed to the

decision of the majority of the East Timorese to integrate with Indonesia. Due process of law for each and every Indonesian, including East Timorese, is guaranteed by the Constitution and the law. To date there are 79 persons who have been sentenced by the District Court in Dili (Court of First Instance) to prison terms on being found quilty of charges under article 110, paragraph 1, together with article 106 of the Penal Code (involvement in a conspiracy aimed at subjugating the whole or a part of the territory of the State to foreign government or for the purpose of seceding a part of the territory of the State). They are at present serving their prison terms in Dili and other places in Indonesia.

3. Arnold Clemens Ap, the former Curator of the Museum of Anthropology of the Cendrawasih University in Jayapura, Irian Jaya, was detained on 30 November 1983 for his suspected involvement in subversive activities. On 22 April 1984, together with other detainees of the same category, including Edward Mofu, he escaped from the place of detention after overpowering the prison guards and seizing their weapons. Their attempt to escape by sea ended in failure and Edward Mofu was drowned in the attempt. Arnold Ap was killed in a shoot-out with the police in Pasir Enam, Jayapura on 26 April 1984. The report that Azer Demotekai died as a result of torture in February 1984 is false. No case involving a person by the name of Azer Demotekai is on the records of the Indonesian Government.

It is our sincere hope that the foregoing comment will clarify the matters referred to in your letter and will enable you to prepare an objective report for the benefit of the Commission on Human Rights."

76. The Special Rapporteur met the representative of the Government of Indonesia on 22 October 1985 and the Permanent Representative of Indonesia to the United Nations Office at Geneva on 16 January 1986. At both meetings it was confirmed that the killings connected with the crime, which the Government attributed to conflicts within the criminal bands, had been drastically reduced and was virtually non-existent. The Special Rapporteur was also told of the understanding between the Government of Indonesia and the International Committee of the Red Cross on an arrangement for tracing missing persons.

77. The Special Rapporteur transmitted a summary of the allegations received in regard to the Islamic Republic of Iran, which reads as follows:

"A number of persons were reported to have been executed secretly or publicly without any trial or after trials which did not provide safeguards to protect the rights of the defendant. The total number of executions in the Islamic Republic of Iran since June 1981 to date was said to be 40,000.

"It was alleged that among those executed 10,231 persons were identified. Among those identified there were reportedly 430 persons under 18 years old, 15 children and 18 pregnant women. Among the alleged victims were a number of Baha'is and members of the Tudeh Party."

78. No reply has been received from the Government of the Islamic Republic of Iran.

Cachiquel-speaking area). Almost all the residents described them as "desconocidos" ("unknown"), although one of them said they were insurgents. No one was hurt during the robbery, although the family whose house was burned out had moved to San Martín to stay either with friends or relatives.

After take-off, the helicopter circled over much of the surrounding area and the private investigators attempted to find some area that showed signs of recent slides, explosions, or raw rock. None was found.

After ascertaining the above, the private investigators found that a similar event had been reported in the March violence report. This incident was reported in the local press in late March. Those reports stated that 26 guerrillas had burned nine houses in the village of Las Canoas and had escaped without encountering the army.

COMMENT. Whatever happened in Santa Anita, it appears quite certain that no massacre took place in recent weeks. The villagers were not at all reticent to discuss the 1982 events, but denied that any other incidents had taken place in the farm between 1982 and the March robbery. The children's version of the events basically matched that of the adults, and as they say in Guatemala "only drunks and children ever tell the whole truth". The children were also quite happy and did not act as if they had lost loved ones in the recent past. Neither the neighbours nor the hospitals gave any indication that anything out of the ordinary had happened in the area in recent weeks. Thus, although we do not know who robbed Santa Anita, the private investigator who visted the farm is quite certain that no massacre took place there as originally reported in the press. End of comment.'"

114. On 23 July 1985, the Permanent Representative of Guatemala to the United Nations Office at Geneva visited the Special Rapporteur concerning the above-mentioned allegations.

115. The Special Rapporteur transmitted a summary of the allegations received in regard to Indonesia, which reads as follows:

"In East Timor during the past years a number of persons, after having been arrested by the Indonesian authorities for their suspected sympathy or connection with the Frente Revolucionária de Timor Leste (FRETILIN) or in reprisal for alleged attacks by FRETILIN members, were allegedly killed in detention. Among those allegedly known to have been killed in detention in 1984, 44 names were given. The following are some of those identified cases:

1. Jaime Castelo
   executed in February 1984 while being detained in the district military command (KODIM) in Los Palos

2. Moises Aranjo, Laurenco Arango, João Xavier and Oscar
   executed on 29 May 1984

3. Vicente Freitas, Jacinto da Silva, Tomas da Silva
   executed on 30 May 1984 in Baubau.

In addition, approximately 100 men were reported to have been executed in March 1984 while in the custody of Indonesian forces in the vicinity of the village of Hamba near Bobonaro.

Furthermore, numerous persons allegedly continued to be killed by security forces as in previous years in connection with an anti-crime campaign. Dead bodies of suspected criminals were found in particular North Sumatra, East Java, West Java and in Jakarta."

116. The following letter, dated 22 October 1985, was received from the Permanent Representative of Indonesia to the United Nations Office at Geneva

[Original: English]

"...

Referring to your letter of 12 July 1985, number G/SO 214 (33-3), relation to your mandate as the Special Rapporteur of the Commission on Human Rights on summary or arbitrary executions, I would like to convey my Government's comments which are as follows:

1. As in the past, the Government of Indonesia solemnly honours all the provisions of the Constitution and laws in respect of the protection of human rights, including the right to life. It is the determination of the Government of Indonesia strict to ensure the implementation of laws and regulations to prot the rights of individuals with regard to arrests, detentions trials, and execution of sentences.

2. The Government of Indonesia would like to restate that the information about the alleged killings of a number of person held in detention in the Province of East Timor as well as t alleged executions in the vicinity of the village of Hamba during 1984 is simply untrue. The clarification for these allegations was already given by the Permanent Representativ of Indonesia in his letter No.43/POL-10/85, dated 10 January 1985. There is no need to repeat the details of this explanation, since it is undoubtedly clear that those allegations are part of a politically motivated campaign against Indonesia conducted by ex-FRETILIN members in exile their supporters abroad. In addition, those allegations are nothing more than distorted fact, rumours and hearsay, the truth of which will never stand the test of independent sources. The Indonesian Government's respect of the law and rights of individuals, no less in the Province of East Timor than any other province of the country is reflected, among other things, by the fact that persons suspected of criminal offences are tried in civil courts. In the case of East Tim almost 160 persons were sentenced on charges based on article 110, section 1, together with article 106 of the Indonesian Criminal Code, from December 1963 to March 1985. this number, 128 persons received sentences of less than seven years. Furthermore, 50 persons, previously held in Comarca prison, were released in April 1985, upon the Court finding of insufficient evidence.

3. With regard to the reported 'mysterious killings', the Government of Indonesia would like to reiterate its opinion

contained in the letter of the Permanent Representative of Indonesia to the United Nations in Geneva No.141//POL-040/84 dated 24 January 1984 that these killings are not in any way directed or condoned by the Indonesian Government, because illegal methods in combating crime as alleged are not only against the provisions of the Constitution, but are also in contravention of the due process of law for each and every Indonesian.

It is our sincere hope that the above comments will clarify the allegations referred to in your letter and therefore enable you to prepare an impartial and objective report for the forty-second session of the Commission on Human Rights."

117. On 5 November 1985 and 15 January 1986, the representative of the Government of Indonesia and the Permanent Representative of Indonesia to the United Nations Office at Geneva visited the Special Rapporteur concerning the above-mentioned allegations.

118. The Special Rapporteur transmitted a summary of the allegations received in regard to the Islamic Republic of Iran, which reads as follows:

"In 1985 a number of persons were reported to have been executed secretly or publicly without any trial or after trials which did not provide safeguards to protect the rights of the defendants. It was alleged that during 1984 580 persons were known to have been executed in this manner. In April and May 1985 more than 300 persons were allegedly executed in Evin Prison in Tehran."

119. No reply has been received from the Government of the Islamic Republic of Iran.

120. The Special Rapporteur transmitted a summary of the allegations received in regard to Iraq, which reads as follows:

"A number of persons were reported to have been executed without charge or a trial in February and March 1985. Those who were executed were said to be members of the Kurdish Democratic Party (KDP), members of the Al-Hakim family and members of the Assyrian community. The names of those executed were given as follows:

1. Members of KDP executed in February:

(a) Muhammad 'Al Zahir

(b) Hadji Ahmad Osman

(c) Yhaya Yunis

(d) Ali Aziz Muhammad

(e) Hussain Salih Mustafa

(f) Behir Sinjari

(g) Abdallah Hemed 'Abdallah